

CONFIDENTIAL

DRAFT
TREATY OF
FRIENDSHIP, COMMERCE
AND NAVIGATION
BETWEEN THE UNITED
STATES OF AMERICA
AND THE
COMMONWEALTH OF

~~AUSTRALIA~~

Italy

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY AJ RMD DATE 9/19/83
PDS/OF XDC/EXA. DATE _____
TS AUTH. _____ REASON(S) _____
ENDORSE EXISTING MARKINGS ☒
DECLASSIFIED ☒ RELEASABLE ☒
RELEASE DETERM. _____
PA or FOI EXEMPTIONS _____

CONTENTS*

Title	
Preamble	1
Article I Entry and Activities of foreign nationals	2
II Status and activities of foreign corporations	4
III Participation in and operations of domestic corporations	6
IV Mining	8
V Protection, access to courts and commercial arbitration	9
VI Visit and search of premises	12
VII Real and personal property	13
VIII Taxation of persons and corporations	16
IX Commercial travelers	18
X Religious, intellectual and mortuary activities	19
XI Civil liability for injury or death	21
XII Military service	22
XIII Import and export duties and restrictions	24
XIV Customs administration	27
XV Treatment of imported articles	29
XVI Exchange control	31
XVII Government monopolies and contracts	34
XVIII Entry of foreign vessels	36
XIX Treatment of foreign vessels	37

*It is not proposed that the table of contents form part of the treaty; it is included merely to facilitate study of this draft.

SECRET

Article -- Continued

XX Imports and exports in foreign vessels . .	39
XXI Loading and unloading of vessels; coast- ing trade and inland navigation	40
XXII Transit	41
XXIII General exceptions	43
XXIV Territorial scope	46
XXV Arbitration or adjudication of disputes .	47
XXVI Termination of existing agreements	48
XXVII Termination	49
Final clauses	50

The United States of America and the Commonwealth of Australia, desirous of strengthening the bond of peace and the traditional ties of friendship between the two countries and of promoting closer intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of their peoples, have resolved to conclude a Treaty of Friendship, Commerce and Navigation based in general upon the principles of national and of most-favored-nation treatment in the unconditional form, and for that purpose have appointed as their Plenipotentiaries,

The President of the United States of America:

and,

His Majesty, the King of Great Britain, Ireland, and the British Dominions beyond the Seas, Emperor of India:

For the Commonwealth of Australia:

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

0311001000

ARTICLE I

1. The nationals of either High Contracting Party shall be permitted, subject to the provisions of paragraph 4 of this article, to enter the territories of the other High Contracting Party, and shall be permitted freely to reside and travel therein.

2. The nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted, without interference, to exercise, in conformity with the applicable laws and regulations, the following rights and privileges upon the same terms as nationals of such other High Contracting Party:

- (a) to engage in commercial, manufacturing, processing, financial, scientific, educational, religious and philanthropic activities;
- (b) to engage in every professional activity not reserved exclusively to nationals of the country;
- (c) to acquire, own, erect or lease, and occupy appropriate buildings, and to lease appropriate lands, for residential, commercial, manufacturing, processing, financial, professional, scientific, educational, religious, philanthropic and mortuary purposes;
- (d) to employ agents and employees of their choice regardless of nationality; and
- (e) to do anything incidental to or necessary for the enjoyment of any of the foregoing rights and privileges.

3. The nationals of either High Contracting Party

shall not in any case, with respect to the matters referred to in paragraphs 1 and 2 of this Article, receive treatment less favorable than the treatment which is or may hereafter be accorded to the nationals of any third country.

4. The provisions of this Treaty shall not be construed to affect existing statutes of either High Contracting Party in relation to immigration or the right of either High Contracting Party to enact statutes relating to immigration; provided, however, that nothing in this paragraph shall prevent the nationals of either High Contracting Party from entering, traveling and residing in the territories of the other High Contracting Party in order to carry on trade between the two High Contracting Parties or to engage in any commercial activity related thereto or connected therewith, upon terms as favorable as are or may hereafter be accorded to the nationals of any third country entering, traveling and residing in such territories in order to carry on trade between such other High Contracting Party and such third country or to engage in commercial activity related to or connected with such trade.

ARTICLE II

ARTICLE II

1. As used in this Treaty the term "corporations and associations" shall mean corporations, companies, partnerships and other associations, whether or not with limited liability and whether or not for pecuniary profit, which have been or may hereafter be created or organized under the applicable laws and regulations.

2. Corporations and associations created or organized under the applicable laws and regulations within the territories of either High Contracting Party shall be deemed to be corporations and associations of such High Contracting Party and shall have their juridical status recognized within the territories of the other High Contracting Party whether or not they have a permanent establishment, branch or agency therein.

3. Corporations and associations of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted, without interference, to exercise all the rights and privileges enumerated in paragraph 2 of Article I, in conformity with the applicable laws and regulations, upon the same terms as corporations and associations of such other High Contracting Party. The preceding sentence, and all other provisions of this Treaty according to corporations and associations of the Commonwealth of Australia rights and privileges upon the same terms as corporations and associations of the United States of America, shall be construed as according such rights and privileges, in any state, territory or possession of the United States of America, upon the same terms as such rights and

privileges are or may hereafter be accorded therein to corporations and associations created or organized in other states, territories or possessions of the United States of America.*

4. Corporations and associations of either High Contracting Party shall not in any case, with respect to the matters referred to in this Article, receive treatment less favorable than the treatment which is or may hereafter be accorded to corporations and associations of any third country.

ARTICLE III

*Since Australia is also a federal state, it may be desirable to revise this provision in order to make it mutually applicable.

ARTICLE III

1. The nationals, corporations and associations of either High Contracting Party shall enjoy, throughout the territories of the other High Contracting Party, rights and privileges with respect to organization of and participation in corporations and associations of such other High Contracting Party, including the enjoyment of rights with respect to promotion and incorporation, the purchase, ownership and sale of shares and, in the case of nationals, the holding of executive and official positions, in conformity with the applicable laws and regulations, upon the same terms as nationals, corporations and associations of any third country. Corporations and associations of either High Contracting Party, organized or participated in by nationals, corporations and associations of the other High Contracting Party pursuant to the rights and privileges enumerated in this paragraph, and controlled by such nationals, corporations and associations, shall be permitted to exercise the functions for which they are created or organized, in conformity with the applicable laws and regulations, upon the same terms as corporations and associations that are similarly organized, participated in and controlled by nationals, corporations and associations of any third country.

2. The nationals, corporations and associations of either High Contracting Party shall be permitted, in conformity with the applicable laws and regulations within the territories of the other High Contracting

Party to organize and control

and associations of such other High Contracting Party for engaging in commercial, manufacturing, processing, mining, educational, philanthropic, religious and scientific activities. Such corporations and associations shall be permitted to engage in such commercial, manufacturing, processing, mining, educational, philanthropic, religious and scientific activities within such territories, in conformity with the applicable laws and regulations, upon the same terms as corporations and associations of such other High Contracting Party organized, controlled and managed by its own nationals, corporations and associations.

ARTICLE IV

0311071000

- 5 -

ARTICLE V

1. The nationals of each High Contracting Party shall receive, within the territories of the other High Contracting Party, the most constant protection and security for their persons and property, and shall enjoy in this respect the full protection and security required by international law. To these ends, persons accused of crime shall be brought to trial promptly, and shall enjoy all the rights and privileges which are or may hereafter be accorded by the applicable laws and regulations; and nationals of either High Contracting Party, while within the custody of the authorities of the other High Contracting Party, shall receive reasonable and humane treatment. In so far as the term "nationals" where used in this paragraph is applicable in relation to property it shall be construed to include corporations and associations.

2. The property of nationals, corporations and associations of either High Contracting Party shall not be taken within the territories of the other High Contracting Party without due process of law and without the prompt payment of just and effective compensation. The recipient of such compensation shall, in conformity with such applicable laws and regulations as are not inconsistent with paragraph 3 of Article XVI of this Treaty, be permitted without interference to withdraw the compensation by obtaining foreign exchange, in the currency of the High Contracting Party of which such recipient is a national, corporation or association, upon the most favorable terms applicable to such
currency

- 10 -

currency at the time of the taking of the property, and exempt from any transfer or remittance tax, provided application for such exchange is made within one year after receipt of the compensation to which it relates.

3. The nationals, corporations and associations of either High Contracting Party shall within the territories of the other High Contracting Party receive protection and security with respect to the matters enumerated in paragraphs 1 and 2 of this Article, upon compliance with the applicable laws and regulations, no less than the protection and security which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party and no less than that which is or may hereafter be accorded to the nationals, corporations and associations of any third country.

4. The nationals, corporations and associations of either High Contracting Party shall enjoy freedom of access to the courts of justice and to administrative tribunals and agencies in the territories of the other High Contracting Party, in all degrees of jurisdiction established by law, both in pursuit and in defense of their rights; shall be at liberty to choose and employ lawyers, interpreters and representatives in the prosecution and defense of their rights before such courts, tribunals and agencies; and shall be permitted to exercise all these rights and privileges, in conformity with the applicable laws and regulations, upon terms no less favorable than the terms which are or may hereafter be accorded to the nationals, corporations and associations of

of the other High Contracting Party and no less favorable than are or may hereafter be accorded to the nationals, corporations and associations of any third country.

Moreover, corporations and associations of either High Contracting Party which are not engaged in business or in non-profit activities within the territories of the other High Contracting Party shall be permitted to exercise the rights and privileges accorded by the preceding sentence without any requirement of registration or domestication.

5. In the case of any controversy susceptible of settlement by arbitration, which involves nationals, corporations or associations of both High Contracting Parties and is covered by a written agreement for arbitration, such agreement shall be accorded full faith and credit by the courts within the territories of each High Contracting Party, and the award or decision of the arbitrators shall be accorded full faith and credit by the courts within the territories of the High Contracting Party in which it was rendered, provided the arbitration proceedings were conducted in good faith and in conformity with the agreement for arbitration.

ARTICLE VI

ARTICLE VI

The dwellings, warehouses, factories, shops, and other places of business, and all premises thereto appertaining, of the nationals, corporations and associations of either High Contracting Party, located in the territories of the other High Contracting Party, shall not be subject to unlawful entry or molestation. There shall not be made any visit to, or any search of, any such dwellings, buildings or premises, nor shall any books, papers or accounts therein be examined or inspected, except under conditions and in conformity with procedures no less favorable than the conditions and procedures prescribed for nationals, corporations and associations of such other High Contracting Party under the applicable laws and regulations within the territories thereof. In no case shall the nationals, corporations or associations of either High Contracting Party in the territories of the other High Contracting Party be treated less favorably with respect to the foregoing matters than the nationals, corporations or associations of any third country. Moreover, any visit, search, examination or inspection which may be permissible under the exception stated in this Article shall be made with due regard for, and in such a way as to cause the least possible interference with, the occupants of such dwellings, buildings or premises or the ordinary conduct of any business or other enterprise.

ARTICLE VII

0311508703

1. NOTE: A provision regarding acquisition, ownership and disposal of real and other immovable property is being studied by the Department of State, but is not ready for incorporation in this treaty draft.

2. If a national, corporation or association of either High Contracting Party, whether or not resident and whether or not engaged in business or other activities within the territories of the other High Contracting Party, is on account of alienage prevented by the applicable laws and regulations within such territories from succeeding as devisee, or as heir in the case of a national, to real or other immovable property situated therein, or to interests in such property, then such national, corporation or association shall be allowed a term of three years in which to sell or otherwise dispose of such property or interests, this term to be reasonably prolonged if circumstances render it necessary. The transmission or receipt of such property or interests shall be exempt from the payment of any estate, succession, probate or administrative taxes or charges higher than those now or hereafter imposed in like cases of nationals, corporations or associations of the High Contracting Party in whose territory the property is or the interests therein are situated. Moreover, such devisee or heir shall, in conformity with such applicable laws and regulations as are not inconsistent with paragraph 3 of Article XVI, be permitted without interference to withdraw the proceeds of the sale of such property by obtaining foreign exchange, in the currency of the High Contracting Party of which the devisee is a national, corporation or

association,

association, or of which the heir is a national, during a period not in excess of three years after application therefor, upon the most favorable terms applicable to such currency at the time application for the withdrawal of such proceeds is filed, provided such application is made within one year after receipt of the proceeds of sale to which it relates.

3. The nationals of either High Contracting Party shall have full power to dispose of personal property of every kind within the territories of the other High Contracting Party, by testament, donation or otherwise and their heirs, legatees or donees, being persons of whatever nationality or corporations or associations wherever created or organized, whether resident or nonresident and whether or not engaged in business within the territories of the High Contracting Party where such property is situated, shall succeed to such property, and shall themselves or by their agents be permitted to take possession thereof, and to retain or dispose of it at their pleasure. Such disposition, succession and retention shall be subject to the provisions of Article VIII and exempt from any other charges, and from any restrictions, other or higher than those applicable in like cases of nationals, corporations and associations of such other High Contracting Party. The nationals, corporations and associations of either High Contracting Party shall be permitted to succeed, as heirs, legatees and donees, to personal property of every kind within the territories of the other High Contracting Party, left or given to them by nationals of either High Contracting Party or

by

by nationals of any third country, and shall themselves or by their agents be permitted to take possession thereof, and to retain or dispose of it at their pleasure. Such disposition, succession and retention shall be subject to the provisions of Article VIII and exempt from any other charges, and from any restrictions, other or higher than those applicable in like cases of nationals, corporations and associations of such other High Contracting Party. [In the event of the death of a national of either High Contracting Party the recipients by virtue of testate or intestate succession of his personal property located within the territories of the other High Contracting Party shall be determined by the applicable laws and regulations at the place where he was domiciled at the time of his death.]

4. The nationals, corporations and associations of either High Contracting Party shall, subject to the exceptions in paragraph 2 of Article VIII, receive treatment in respect of all matters which relate to the acquisition, ownership, lease, possession or disposition of personal property, no less favorable than the treatment which is or may hereafter be accorded to nationals, corporations and associations of any third country.

ARTICLE VIII

ARTICLE VIII

1. The nationals of either High Contracting Party residing or engaged in business within the territories of the other High Contracting Party, and the corporations and associations of either High Contracting Party engaged in business within such territories or organized and operated exclusively for scientific, educational, religious or philanthropic activities, shall not be subject to the payment of any internal taxes, fees or charges higher than those which are or may hereafter be imposed by applicable laws and regulations in like cases of nationals, corporations and associations of such other High Contracting Party. In the case of corporations and associations specified in the preceding sentence, such taxes, fees or charges shall not be imposed upon or applied to any income, property, capital or other criterion of measurement in excess of that reasonably allocable or apportionable to the territories of such other High Contracting Party. The provisions of this Treaty according national treatment as to taxation shall not be construed as obligating either High Contracting Party to accord to nonresident nationals of the other High Contracting Party the same exemptions and deductions of a personal nature as are accorded to its own nationals.

2. A national, or a corporation or association, of either High Contracting Party shall not be subject to the payment of any internal taxes, fees or charges imposed by the applicable laws and regulations within the territories of the other High Contracting Party higher than those which

are

are or may hereafter be imposed therein upon a national or resident , or a corporation or association, of any third country, except that the foregoing provisions of this paragraph shall not apply to any advantage in respect of internal taxes, fees or charges which is or may hereafter be granted to a national or resident, or a corporation or association of any third country, either (a) pursuant to laws or regulations extending the same advantage to all countries, or to the nationals, residents, corporations or associations thereof, on the basis of reciprocity, or (b) in a treaty or other agreement concluded with such third country for the avoidance of double taxation or the mutual protection of revenue.

ARTICLE IX

CONFIDENTIAL

ARTICLE IX

Commercial travelers representing nationals, corporations or associations of either High Contracting Party engaged in business within the territories thereof, shall, upon their entry into and sojourn within the territories of the other High Contracting Party and on departure therefrom, be accorded treatment no less favorable than the treatment now or hereafter accorded to commercial travelers of any third country in respect of customs and other rights and privileges and, subject to the exceptions in paragraph 2 of Article VIII, in respect of all taxes and charges applicable to them or to their samples.

ARTICLE X

CONFIDENTIAL

ARTICLE X

1. The nationals of either High Contracting Party shall, within the territories of the other High Contracting Party, be permitted to exercise liberty of conscience and freedom of worship, and they may, whether individually, collectively or in religious corporations or associations, and without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services, either within their own houses or within any other appropriate buildings, provided that their teachings or practices are not contrary to public morals.

2. The High Contracting Parties declare their adherence to the principles of freedom of the press and of free interchange of information. To this end, nationals, corporations and associations of either High Contracting Party shall have the right, within the territories of the other High Contracting Party, to engage in such activities as writing, reporting and gathering of information for dissemination to the public, and shall enjoy freedom of transmission of material to be used abroad for publication by the press, radio, motion pictures, and other means. The nationals, corporations and associations of either High Contracting Party shall enjoy freedom of publication in the territories of the other High Contracting Party, in accordance with the applicable laws and regulations, upon the same terms as nationals, corporations or associations of such other High Contracting Party. The term "information", as used in this paragraph, shall include all forms of written communications,

communications, printed matter, motion pictures, recordings and photographs.

3. The nationals of either High Contracting Party shall be permitted within the territories of the other High Contracting Party to bury their dead according to their religious customs in suitable and convenient places which are or may hereafter be established and maintained for the purpose, subject to the applicable mortuary and sanitary laws and regulations.

ARTICLE XI

ARTICLE XI

The nationals of either High Contracting Party, regardless of alienage or place of residence, shall be accorded rights and privileges no less favorable ^{which are now or may hereafter be} than those accorded to the nationals of the other High Contracting Party, under laws and regulations within the territories of such other High Contracting Party that (a) establish a civil liability for injury or death, and give a right of action to an injured person, or to the relatives, heirs, dependents or personal representative, as the case may be, of an injured or deceased person, or that (b) grant to a wage earner or an individual receiving salary, commission or other remuneration, or to his relatives, heirs or dependents, as the case may be, a right of action, or a pecuniary compensation or other benefit or service, on account of occupational disease, injury or death arising out of and in the course of employment or due to the nature of employment.

ARTICLE XII

1944

ARTICLE XII

1. The nationals of each High Contracting Party shall be exempt, except as otherwise provided in paragraph 2 of this Article, from compulsory military or naval training or service under the jurisdiction of the other High Contracting Party, and shall also be exempt from all contributions in money or in kind imposed in lieu thereof.

2. During any period of time when both of the High Contracting Parties are, through military or naval action in connection with which there is general compulsory military or naval service, (a) enforcing measures against the same third country or countries in pursuance of obligations for the maintenance of international peace and security, or (b) concurrently conducting hostilities against the same third country or countries, the exemptions provided in paragraph 1. of this Article shall not apply. However, in such an event the nationals of either High Contracting Party in the territories of the other High Contracting Party, who have not declared their intention to acquire the nationality of such other High Contracting Party, shall be exempt from military or naval service under the jurisdiction of such other High Contracting Party if within a reasonable time prior to their induction for such service they elect, in lieu of such service, to enter the military or naval service of the High Contracting Party of which they are nationals. In any such situation the High Contracting Parties will make the necessary arrangements for giving effect to the provisions of this paragraph.

3. Nothing in this Article shall be construed to affect the right of either High Contracting Party to debar from acquiring its citizenship any person who seeks and obtains exemptions in accordance with the provisions of paragraphs 1 or 2 of this Article.

ARTICLE XIII

0314501000

ARTICLE XII

1. In all matters relating to (a) customs duties and subsidiary charges of every kind imposed on imports or exports and in the method of levying such duties and charges, (b) the rules, formalities, and charges imposed in connection with the clearing of articles through the customs, and (c) the taxation, sale, distribution or use within the country of imported articles and of articles intended for exportation, each High Contracting Party shall accord to articles the growth, produce or manufacture of the other High Contracting Party, from whatever place arriving, or to articles destined for exportation to the territories of such other High Contracting Party, by whatever route, treatment no less favorable than the treatment now or hereafter accorded to like articles the growth, produce or manufacture of, or destined for, any third country.

2. With respect to the matters referred to in paragraph 1 of this Article, the nationals, corporations and associations of either High Contracting Party shall be accorded, within the territories of the other High Contracting Party, treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party; and with respect to such matters the nationals, corporations and associations, vessels and cargoes of either High Contracting Party shall be accorded, within the territories of the other High Contracting Party, treatment no less favorable than the treatment which is or may hereafter be accorded to nationals,

nationals, corporations and associations, vessels and cargoes of any third country.

3. No prohibition or restriction of any kind shall be imposed by either High Contracting Party on the importation, sale, distribution or use of any article the growth, produce or manufacture of the other High Contracting Party, or on the exportation of any article destined for the territories of the other High Contracting Party, unless the importation, sale, distribution or use of the like article the growth, produce or manufacture of all third countries, or the exportation of the like article to all third countries, respectively, is similarly prohibited or restricted.

4. If either High Contracting Party imposes any quantitative regulation, whether made effective through quotas, licenses or other measures, on the importation or exportation of any article, or on the sale, distribution or use of any imported article, it shall as a general rule give public notice of the total quantity or value of such article permitted to be imported, exported, sold, distributed or used during a specified period, and of any change in such quantity or value. Furthermore, if either High Contracting Party allots to any third country a share of such total quantity or value of any article in which the other High Contracting Party has an important interest, it shall as a general rule allot to such other High Contracting Party a share of such total quantity or value based upon the proportion of the total quantity or value supplied by, or in the case of exports a share based upon

- 20 -

upon the proportion exported to, the territories of such other High Contracting Party during a previous representative period, account being taken in so far as practicable of any special factors which may have affected or may be affecting the trade in that article. The provisions of this paragraph relating to imported articles shall also apply in respect of the quantity or value of any article permitted to be imported free of duty or tax, or at a lower rate of duty or tax than the rate of duty or tax imposed on imports in excess of such quantity or value.

5. If either High Contracting Party requires documentary proof of origin of imported articles, the requirements imposed therefor shall be reasonable and shall not be such as to constitute an unnecessary hindrance to ^{direct or} indirect trade.

ARTICLE XIV

09:15:00

ARTICLE XIV

1. Laws, regulations of administrative authorities and decisions of administrative or judicial authorities of each High Contracting Party pertaining to the classification of articles for customs purposes or to rates of duty shall be published promptly in such a manner as to enable traders to become acquainted with them. Such laws, regulations and decisions shall be applied uniformly at all ports of each High Contracting Party, except as otherwise specifically provided for in statutes of the United States of America with respect to the importation of articles into its insular territories and possessions.

2. No administrative ruling by either High Contracting Party effecting advances in rates of duties or charges applicable under an established and uniform practice to imports originating in the territories of the other High Contracting Party, or imposing any new requirement with respect to such importations, shall as a general rule be applied to articles the growth, produce or manufacture of the other High Contracting Party already en route at the time of publication thereof in accordance with the preceding paragraph; provided that, if either High Contracting Party customarily exempts from such new or increased obligations articles entered for consumption or withdrawn from warehouse for consumption during a period of thirty days after the date of such publication, such practice shall be considered full compliance with this paragraph. The provisions of this paragraph shall not apply to administrative orders imposing antidumping or countervailing duties, or relating to regulations for the protection

- 20 -

protection of human, animal or plant life or health,
or relating to public safety, or giving effect to
judicial decisions.

3. Each High Contracting Party shall provide some administrative or judicial procedure under which the nationals, corporations and associations of the other High Contracting Party, and importers of articles the growth, produce or manufacture of such other High Contracting Party, shall be permitted to appeal against fines and penalties imposed upon them by the customs authorities, confiscations by such authorities and rulings of such authorities on questions of customs classification and of valuation of articles for customs purposes. Greater than nominal penalties shall not be imposed by either High Contracting Party in connection with any importation by the nationals, corporations or associations of the other High Contracting Party, or in connection with the importation of articles the growth, produce or manufacture of such other High Contracting Party, because of errors in documentation which are obviously clerical in origin or with regard to which good faith can be established.

4. Each High Contracting Party will accord sympathetic consideration to such representations as the other High Contracting Party may make with respect to the operation or administration of import or export prohibitions or restrictions, quantitative regulations, customs regulations or formalities, or sanitary laws or regulations for the protection of human, animal or plant life or health.

ARTICLE XV

1. Articles the growth, produce or manufacture of either High Contracting Party, imported into the territories of the other High Contracting Party, shall be accorded treatment with respect to all matters affecting internal taxation, or the sale, distribution or use within such territories, no less favorable than the treatment which is or may hereafter be accorded to like articles of national origin.

2. Articles grown, produced or manufactured within the territories of either High Contracting Party in whole or in part by nationals, corporations and associations of the other High Contracting Party, or by corporations and associations of the High Contracting Party within the territories of which such articles are grown, produced or manufactured which are controlled by nationals, corporations and associations of the other High Contracting Party, shall be accorded within such territories treatment with respect to all matters affecting internal taxation, or the sale, distribution or use therein, or exportation therefrom, no less favorable than the treatment now or hereafter accorded to like articles grown, produced or manufactured therein in whole or in part by nationals, corporations and associations of the High Contracting Party within the territories of which the articles are grown, produced or manufactured, or by corporations and associations of such High Contracting Party which are controlled by such nationals, corporations and associations. The articles specified in the preceding sentences shall not in any case

case receive treatment less favorable than the treatment which is or may hereafter be accorded to like articles grown, produced or manufactured in whole or in part by nationals, corporations and associations of any third country, or by corporations and associations controlled by such nationals, corporations and associations.

3. In all matters relating to export bounties, customs drawbacks and the warehousing of articles intended for exportation, the nationals, corporations and associations of either High Contracting Party shall be accorded within the territories of the other High Contracting Party treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of such other High Contracting Party.

ARTICLE XVI

0310500000

ARTICLE XVI

1. If either High Contracting Party establishes or maintains any form of control of the means of international payment or of international financial transactions, it shall accord fair and equitable treatment to the nationals, corporations and associations and commerce of the other High Contracting Party with respect to all aspects of such control.

2. The High Contracting Party establishing or maintaining such control shall impose no prohibition, restriction or delay on the transfer of payment for any article the growth, produce or manufacture of the other High Contracting Party which is not imposed on the transfer of payment for the like article the growth, produce or manufacture of all third countries. With respect to rates of exchange and with respect to taxes or charges on exchange transactions, articles the growth, produce or manufacture of the other High Contracting Party shall be accorded treatment no less favorable than the treatment which is or may hereafter be accorded to like articles the growth, produce or manufacture of any third country. The provisions of this paragraph shall also extend to the application of such control to payments necessary for or incidental to the importation of articles the growth, produce or manufacture of the other High Contracting Party. In general, any such control shall be administered so as not to influence to the disadvantage of the other High Contracting Party the competitive relationships between articles the growth, produce or manufacture of such other High Contracting Party

Party and like articles the growth, produce or manufacture of any third country.

3. In all that relates to the transfer of profits, dividends, interest, payments for imported articles, and of other funds, to loans and to all other international financial transactions, between the territories of the two High Contracting Parties or between the territories of the High Contracting Party which establishes or maintains the control referred to in paragraph 1 of this Article and the territories of any third country, the High Contracting Party establishing or maintaining the control shall accord to the nationals, corporations and associations of the other High Contracting Party treatment no less favorable than the treatment which is or may hereafter be accorded to its own nationals, corporations and associations, and no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of any third country which make or receive like transfers and loans, and which are parties to like transactions, between the territories of the same two countries. Moreover, the High Contracting Party establishing or maintaining such control shall accord to the nationals, corporations and associations of the other High Contracting Party, in all that relates to any such transfers, loans and other transactions between the territories of the two High Contracting Parties, treatment no less favorable than the treatment which is or may hereafter be accorded to the nationals, corporations and associations of any third country which make or receive like transfers and loans.

loans, and which are parties to like transactions, between the territories of the High Contracting Party which establishes or maintains the control and the territories of such third country. The treatment accorded by this paragraph shall apply to rates of exchange and to any prohibition, restriction, delay, tax or other charge on the transfers, loans and other transactions covered by this paragraph; and such treatment shall apply whether the transfers, loans and other transactions take place directly or through an intermediary or intermediaries in a country or countries not parties to this Treaty. In general, any such control shall be administered so as not to influence to the disadvantage of the other High Contracting Party the competitive relationships between the nationals, corporations and associations of such other High Contracting Party and the nationals, corporations and associations of any third country.

ART

ARTICLE XVII

1. If either High Contracting Party establishes or maintains a monopoly or agency for the importation, exportation, purchase, sale, distribution or production of any article, or grants exclusive privileges to any agency to import, export, purchase, sell, distribute or produce any article, such monopoly or agency shall accord to the commerce of the other High Contracting Party fair and equitable treatment in respect of its purchases of articles the growth, produce or manufacture of foreign countries and its sales of articles destined for foreign countries. To this end, the monopoly or agency shall, in making such purchases or sales of any article, be influenced solely by considerations, such as price, quality, marketability, transportation and terms of purchase or sale, which would ordinarily be taken into account by a private commercial enterprise interested solely in purchasing or selling such article on the most favorable terms. If either High Contracting Party establishes or maintains a monopoly or agency for the sale of any service or grants exclusive privileges to any agency to sell any service, such monopoly or agency shall accord fair and equitable treatment to the other High Contracting Party and to the nationals, corporations and associations and to the commerce thereof in respect of transactions involving such service as compared with the treatment which is or may hereafter be accorded to any third country and to the nationals, corporations and associations and to the commerce thereof.

2. Each High Contracting Party, in the awarding of concessions and other contracts, and in the purchasing

of supplies, shall accord fair and equitable treatment to the nationals, corporations and associations and to the commerce of the other High Contracting Party as compared with the treatment which is or may hereafter be accorded to the nationals, corporations and associations and to the commerce of any third country.

3. Each High Contracting Party agrees to take appropriate measures to prevent business practices affecting international trade which restrain competition, and which are engaged in or are made effective by combination, agreement or other arrangement among public or private commercial enterprises. Notwithstanding the foregoing, this undertaking shall not apply to practices necessary to implement intergovernmental agreements which are not otherwise inconsistent with the terms of this Treaty.

ARTICLE XVIII

ARTICLE XVIII

1. Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation.

2. Vessels under the flag of either High Contracting Party, and carrying the papers required by its national law in proof of nationality, shall be deemed to be vessels of that High Contracting Party both within the ports, places and waters of the other High Contracting Party and on the high seas. As used in this Treaty, "vessels" shall be construed to include all vessels of either High Contracting Party whether privately owned or operated or publicly owned or operated. However, the provisions of this Treaty other than this paragraph and paragraph 4 of Article XIX shall not be construed to accord rights to vessels of war or fishing vessels of the other High Contracting Party; nor shall they be construed to extend to nationals, corporations and associations, vessels and cargoes of, or to articles the growth, produce or manufacture of, such other High Contracting Party any special privileges restricted to national fisheries or the products thereof.

3. The vessels of either High Contracting Party shall have liberty, equally with the vessels of any third country, to come with their cargoes to all ports, places and waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation.

ARTICLE XIX

CONFIDENTIAL

- 5 -

ARTICLE XIX

1. The vessels and cargoes of either High Contracting Party shall, within the ports, places and waters of the other High Contracting Party, in all respects be accorded treatment no less favorable than the treatment accorded to the vessels and cargoes of such other High Contracting Party, irrespective of the port of departure or the port of destination of the vessel, and irrespective of the origin or the destination of the cargo.

2. No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges, of whatever kind or denomination, levied in the name or for the profit of the government, public functionaries, private individuals, corporations or establishments of any kind, shall be imposed in the ports, places and waters of either High Contracting Party upon the vessels of the other High Contracting Party, which shall not equally and under the same conditions be imposed upon national vessels.

3. No charges upon passengers, passenger fares or tickets, freight moneys paid or to be paid, bills of lading, contracts of insurance or re-insurance, no conditions relating to the employment of ship brokers, and no other charges or conditions of any kind, shall be imposed in a way tending to accord any advantage to national vessels as compared with the vessels of the other High Contracting Party.

4. If a vessel of either High Contracting Party shall be forced by stress of weather or by reason of any other distress to take refuge in any of the ports, places

5. The vessels and cargoes of either High Contracting Party shall not in any case, with respect to the matters referred to in this Article, receive treatment less favorable than the treatment which is or may hereafter be accorded to the vessels and cargoes of any third country.

0-110597

ARTICLE XX

1. It shall be permissible, in the vessels of either High Contracting Party, to import into the territories of the other High Contracting Party, or to export therefrom, all articles which it is or may hereafter be permissible to import into such territories, or to export therefrom, in the vessels of such other High Contracting Party; and such articles shall not be subject to any other or higher duties or charges whatever than those to which the articles would be subject if they were imported or exported in vessels of the other High Contracting Party. Fuel supplies, ships' stores and sea stores on board vessels may be retained on board and there used or consumed by passengers or crew or in connection with the operation of such vessels without payment of customs duty or any other charge.

2. Bounties, drawbacks and other privileges of this nature of whatever kind or denomination which are or may hereafter be allowed, in the territories of either High Contracting Party, on articles imported or exported in national vessels shall also and in like manner be allowed on articles imported or exported in vessels of the other High Contracting Party.

ARTICLE XXI

0000000000

1. Vessels of either High Contracting Party shall be permitted to discharge portions of cargoes, including passengers, at any ports, places or waters of the other High Contracting Party which are or may hereafter be open to foreign commerce and navigation, and to proceed with the remaining portions of such cargoes or passengers to any other such ports, places or waters, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner, in the same voyage outward, at the various ports, places and waters which are or may hereafter be open to foreign commerce and navigation. The vessels and cargoes of either High Contracting Party shall be accorded, with respect to the matters referred to in this paragraph, treatment in the ports, places and waters of the other High Contracting Party no less favorable than the treatment which is or may hereafter be accorded to the vessels and cargoes of any third country.

2. The coasting trade and inland navigation of each High Contracting Party are excepted from the requirement of national treatment and shall be subject to the local laws and regulations with respect thereto; provided, however, that the nationals, corporations and associations and vessels of either High Contracting Party shall enjoy within the territories of the other High Contracting Party treatment with respect to the coasting trade and inland navigation no less favorable than the treatment now or hereafter accorded to the nationals, corporations and associations and vessels of any third country.

ARTICLE XXII

There shall be freedom of transit through the territories of each High Contracting Party by the routes most convenient for international transit (a) for persons, whether or not they are nationals of the other High Contracting Party, together with their baggage, directly or indirectly coming from or going to the territories of such other High Contracting Party, (b) for persons who are nationals of the other High Contracting Party, together with their baggage, regardless of whether they are coming from or going to the territories of such other High Contracting Party, and (c) for articles directly or indirectly coming from or going to the territories of such other High Contracting Party. Such persons, baggage and articles in transit shall not be subject to any transit duty, to any unnecessary delays or restrictions, or to any discrimination in respect of charges, facilities or any other matter; and all charges and regulations prescribed in respect of such persons, baggage or articles shall be reasonable, having regard to the conditions of the traffic. Either High Contracting Party may require that such baggage and articles be entered at the proper customhouse and that they be kept whether or not under bond in customs custody; but such baggage and articles shall be exempt from all customs duties or similar charges if such requirements for entry and retention in customs custody are complied with and if they are exported within one year and satisfactory evidence of such exportation is presented to the

customs

customs authorities. Such nationals, baggage, persons and articles shall be accorded treatment with respect to all charges, rules and formalities in connection with transit no less favorable than the treatment which is or may hereafter be accorded to the nationals of any third country, together with their baggage, or to persons and articles coming from or going to the territories of any third country.

ARTICLE XXIII

03115 000000

ARTICLE XXIII

1. Nothing in this Treaty shall be construed to prevent the adoption or enforcement by either High Contracting Party of measures:

- (a) relating to the importation or exportation of gold or silver;
- (b) relating to fissionable materials;
- (c) relating to the traffic in arms, ammunition and implements of war and to such traffic in other goods and materials as is carried on for the purpose of supplying a military establishment;
- (d) necessary in pursuance of obligations for the maintenance of international peace and security, or necessary for the protection of the essential interests of such High Contracting Party in time of national emergency; or
- (e) imposing exchange restrictions in conformity with the Articles of Agreement of the International Monetary Fund, signed at Washington December 27, 1945, so long as such High Contracting Party is a member of the Fund; provided that neither High Contracting Party shall utilize its privileges under section 3 of Article VI or section 2 of Article XIV of that Agreement in such a manner as to impair any of the provisions of this Treaty.

2. Subject to the requirement that, under like circumstances and conditions, there shall be no arbitrary discrimination by either High Contracting Party against the other High Contracting Party or against the nationals, corporations, associations,

in favor of any third country or the nationals, corporations, associations, vessels or commerce thereof, the provisions of this Treaty shall not extend to prohibitions or restrictions:

- (a) imposed on moral or humanitarian grounds;
- (b) designed to protect human, animal or plant life or health;
- (c) relating to prison-made goods; or
- (d) relating to the enforcement of police or revenue laws.

3. The provisions of this Treaty according treatment no less favorable than the treatment accorded to any third country shall not apply to:

- (a) advantages which are or may hereafter be accorded to adjacent countries in order to facilitate frontier traffic;
- (b) advantages accorded by virtue of a customs union of which either High Contracting Party may, after consultation with the other High Contracting Party, become a member so long as such advantages are not extended to any country which is not a member of such customs union;
- (c) advantages accorded to third countries pursuant to a multilateral economic agreement of general applicability, including a trade area of substantial size, having as its objective the liberalization and promotion of international trade or other international economic intercourse, and open to adoption by all the United Nations; or

(d) advantages

(d) advantages now accorded or which may hereafter be accorded by the United States of America or its territories or possessions to one another, to the Panama Canal Zone, to the Republic of Cuba or to the Republic of the Philippines, or advantages accorded by the Commonwealth of Australia to 1/

The provisions of clause (d) shall continue to apply in respect of any advantages now or hereafter accorded by the United States of America or its territories or possessions to one another irrespective of any change in the political status of any of the territories or possessions of the United States of America.

4. The provisions of this Treaty shall not be construed to accord any rights or privileges to persons, corporations and associations to engage in political activities, or to organize or participate in political corporations and associations.

5. Each High Contracting Party reserves the right to deny any of the rights and privileges accorded by this Treaty to any corporation or association created or organized under the laws and regulations of the other High Contracting Party which is directly or indirectly owned or controlled, through majority stock ownership or otherwise, by nationals of any third country or countries.

ARTICLE XXIV

1/ This subparagraph refers to exceptions from most-favored-nation treatment which are usual in commercial treaties and trade agreements of the United States. Pending the outcome of discussions concerning preferences in general, no effort has been made to put this part of the draft article on exceptions in definitive form.

ARTICLE XXIV

Subject to any limitation or exception provided in this Treaty or hereafter agreed upon between the High Contracting Parties, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land and water under the sovereignty or authority of either of the High Contracting Parties, except the Panama Canal Zone.

ARTICLE XXV



ARTICLE XXV

Any dispute between the High Contracting Parties as to the interpretation or the application of this Treaty, which the High Contracting Parties shall not satisfactorily adjust by diplomacy, shall be submitted to the International Court of Justice, unless the High Contracting Parties shall agree to settlement by some other pacific means.

ARTICLE XXVI

ARTICLE XXVI

Nothing in this Treaty shall be construed to
impair any provision of the Treaty of Peace between
Italy and the Allied and Associated Powers, signed

ARTICLE XXVI

The present Treaty shall replace the convention between the United States of America and the United Kingdom of Great Britain and Ireland relating to the tenure and disposition of real and personal property signed at Washington March 2, 1899 and the conventions supplementary thereto signed at Washington January 13, 1902 and May 27, 1936, respectively, in so far as the provisions of those conventions are in force between the United States of America and the Commonwealth of Australia.

ARTICLE XXVII

ARTICLE XXVII

1. This Treaty shall be ratified, and the ratifications thereof shall be exchanged at Canberra as soon as possible.

2. This Treaty shall enter into force on the day of the exchange of ratifications, and shall continue in force for a period of ten years from that day.

3. Unless one year before the expiration of the aforesaid period of ten years either High Contracting Party shall have given written notice to the other High Contracting Party of intention to terminate this Treaty upon the expiration of the aforesaid period, the Treaty shall continue in force thereafter until one year from the date on which written notice of intention to terminate it shall have been given by either High Contracting Party.

IN

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English language, at Canberra, this day of , one thousand nine hundred forty seven.

1947